



# The Attorney General of Texas

October 29, 1980

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Equal Opportunity/  
Affirmative Action Employer

Mr. Brent P. Burford  
Assistant City Attorney  
City of Irving  
825 West Irving Boulevard  
Irving, Texas 75060

Open Records Decision No. 258

Re: Whether records relating to transportation of patients by a city operated emergency medical service are public under the Open Records Act

Dear Mr. Burford:

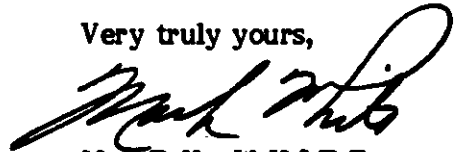
You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether records relating to transportation of patients by a city operated emergency medical service are available to the public. The records in question consist of incident reports filed by employees of the City of Irving Fire Department. The reports identify the patient, provide a physical description of him, and describe the emergency treatment administered.

In Open Records Decision No. 237 (1980), we held that certain incident reports filed by ambulance attendants of the El Paso City-County Health Unit were excepted from disclosure by section 3(a)(1) of the Open Records Act, by either a common law or constitutional right of privacy. The reports at issue concerned emergency medical treatment of persons who had given birth under the care of lay midwives. Not only were the reports much more detailed than those under consideration here, but each was related to childbirth, one of the constitutional zones of privacy specifically recognized by the United States Supreme Court in Roe v. Wade, 410 U.S. 113, 152-153 (1973), and by the Texas Supreme Court in Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W. 2d 668, 678-681 (Tex. 1976).

In our opinion, the reports you have submitted must be disclosed unless they reveal information excepted by a constitutional or common law right of privacy. A constitutional right of privacy will ordinarily exist if the information relates to marriage, procreation, contraception, family relationships, and child rearing and education. Paul v. Davis, 424 U.S. 693, 713 (1976). Since the reports provide relatively little detail, it seems unlikely that a common law privacy interest can ordinarily be demonstrated. Nevertheless, you should routinely determine, before disclosing any incident report, that it does not reveal information which contains such highly

intimate or embarrassing facts about a person that its disclosure would be "highly objectionable to a person of ordinary sensibilities." Industrial Foundation, supra, at 683. For example, reports of treatment for childbirth, venereal disease, female complaints, psychiatric conditions or suicide attempts may raise an issue of common law or constitutional right of privacy. The city should in each instance make the initial determination regarding both constitutional and common law privacy.

Very truly yours,



MARK WHITE  
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APPROVED:  
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